

THE HONORABLE JOHN C. COUGHENOUR
 THE HONORABLE MARSHA PECHMAN
 THE HONORABLE JAMES L. ROBERT
 Noted for Hearing: September 7, 2007
 Without Oral Argument

UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF WASHINGTON
 AT SEATTLE

LUIS TORRES, Individually and on behalf of
 all others similarly situated,

Plaintiff,

v.

MICROSOFT CORPORATION, a Washington
 Corporation,

Defendant.

) No. 07-CV-1121 JCC

) Hon. John C. Coughenour

) **DECLARATION OF MARK A. GRIFFIN**
) **IN SUPPORT OF DESIGNATION OF**
) **KELLER ROHRBACK L.L.P. AS**
) **INTERIM COUNSEL FOR THE**
) **PUTATIVE CLASS PURSUANT TO**
) **FED.R.CIV.P.23(g)(2)(A)**

STEVE CARLIE, Individually and on behalf of
 all others similarly situated,

Plaintiff,

v.

MICROSOFT CORPORATION, a Washington
 Corporation,

Defendant.

) No. 07-CV-1132 CMP

) Hon. Marsha J. Pechman

[Caption continues on next page.]

CHRISTINE MOSKOWITZ and DAVID WOOD, Individually and on behalf of all others similarly situated,

Plaintiffs,

v.

MICROSOFT CORPORATION, a Washington Corporation,

Defendant.

) Case No. 07-CV-1270 JCC

) Hon. John C. Coughenour

HEIDI LING, As parent and natural guardian of ROBERT LING III, Individually and on behalf of all others similarly situated,

Plaintiff,

v.

MICROSOFT CORPORATION, a Washington Corporation,

Defendant.

) Case No. 07-CV-1271 JLR

) Hon. James L. Robart

JUSTIN HANSON, Individually and On Behalf of All Others Similarly Situated,

Plaintiff,

v.

MICROSOFT CORPORATION, a Washington Corporation,

Defendant.

) Case No. 07-CV-1295

) Hon. James L. Robart

Pursuant to 28 U.S.C. § 1746, I, Mark A. Griffin, hereby declare as follows:

1. I am a partner in the law firm of Keller Rohrbach L.L.P. I am one of the attorneys for above-listed plaintiffs Luis Torres, Christine Moskowitz, David Wood, and Heidi Ling, as parent and natural guardian of Robert Ling, III, and the putative Class in this case. I am a

DECLARATION OF MARK A. GRIFFIN
(07-1121 JCC; 07-1132 CMP; 07-1270 JCC; 07-1271 JLR;
07-1295 JLR) Page - 2

LAW OFFICES OF
KELLER ROHRBACH L.L.P.
1201 THIRD AVENUE, SUITE 3200
SEATTLE, WASHINGTON 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

1 member of the bar of the State of Washington and am competent to testify to the matters stated
2 herein. I submit this Declaration, together with the attached exhibits, in support of the motion by
3 Plaintiffs in the above-captioned actions Motion for Class Certification.

4 2. I submit this Declaration in support of the motion by Plaintiffs in the above-
5 captioned actions to appoint the firms of Keller Rohrback L.L.P., Stritmatter Kessler Whelan
6 Coluccio, Chitwood Harley Harnes, LLP, The Hodkin Kopelowitz Ostrow Firm, P.A., Kabateck
7 Brown Kellner LLP, , Krause Kalfayan Benink and Slavens, LLP, and Wasserman Comden &
8 Casselman, LLC as interim counsel to act on behalf of the putative class pursuant to
9 Fed.R.Civ.P. 23(g)(2)(A).
10

11 3. Keller Rohrback has been significantly involved in identifying and investigating
12 potential claims in this action. We have investigated the problem of Microsoft Corporation's
13 ("Microsoft") Xbox 360 gaming consoles (the "Xbox 360") and specifically the fact that the
14 Xbox 360 has and had a continuing problem with scratching and ruining game disks and other
15 optical media loaded into the Xbox 360's included DVD-drive. We have expended significant
16 time responding to inquiries from members of the putative class and interviewing prospective
17 representative plaintiffs.
18

19 4. To date, attorneys and support staff at Keller Rohrback L.L.P. have expended
20 over 40 hours in this matter.
21

22 5. Keller Rohrback L.L.P. has considerable experience in class action litigation, as
23 illustrated by the firm's Complex Litigation Group Resume, attached as Exhibit A hereto.

24 6. The actions that are the subject of this motion substantially involve breach of
25 contract claims and claims under the Washington Consumer Protection Act ("WCPA"). Keller
26 Rohrback L.L.P. specifically has experience litigating class actions alleging violations of this

1 consumer statute. *See Kavu, Inc. v. Omnipak Corporation*, --- F.R.D. --- , 2007 WL 201093
 2 (W.D.Wash. 2007) (certifying class under Rule 23(b)(2) and (b)(3)); *Mortimore v. FDIC*, 197
 3 F.R.D. 432 (W.D. Wash. 2000) (granting Class status to mortgagors based on breach of contract
 4 claims and CPA claims); *Dwyer v. Kislak Mortg. Corp.*, 103 Wn. App. 542, 13 P.3d 240 (2000)
 5 (reversing dismissal of CPA claim on behalf of class of mortgagors); *Wright v. Jeckle*, 104 Wn.
 6 App. 478, 16 P.3d 1268 (2001) (reversing dismissal of CPA claim on behalf of class of
 7 physician's patients); and *Griffith v. Centex*, 93 Wn. App. 202, 969 P.2d 486 (1998) (remanding
 8 for further proceedings on Class CPA claims).

10 7. Moreover, Keller Rohrbach L.L.P. has the experience and resources to prosecute
 11 this case through trial, if necessary. We are a law firm of 58 attorneys and 90 staff members who
 12 provide expert legal services to clients nationwide. We routinely use cutting-edge technology
 13 and case management techniques in the preparation and trial of complex cases. Our support staff
 14 includes in-house programming personnel and experienced paralegals who contribute
 15 significantly to our ability to effectively and efficiently litigate complex class action cases
 16 nationwide. The firm's Complex Litigation Group regularly calls on firm attorneys in other
 17 practice areas for expertise in bankruptcy, contracts, employment law, executive compensation,
 18 corporate transactions, financial institutions, insurance coverage, mergers and acquisitions,
 19 professional malpractice, and securities transactions. The firm's in-house access to these
 20 resources distinguishes Keller Rohrbach L.L.P. from other plaintiffs' class action firms and also
 21 contributes to the firm's success.

24 8. Most recently, Keller Rohrbach L.L.P. was co-counsel in litigation against
 25 Microsoft in this District arising from a different problem with the Xbox 360 gaming console.
 26 Industry analysts are practically unanimous in their view that this litigation was the principal

1 factor in Microsoft's surprise decision in December 2006 to extend the warranty on Xbox 360s
2 from ninety days to a full year.

3 9. Amy Williams-Derry is a senior associate in our Complex Litigation Department
4 who will also assume significant responsibility in this case. Ms. Williams-Derry served as co-
5 counsel in our firm's recent case against Microsoft involving the Xbox 360 console. Ms.
6 Williams-Derry is a 1993 graduate of Brown University (A.B., with honors), and a 1998
7 graduate of the University of Virginia School of Law, where she served as Editor-in-Chief of the
8 *Virginia Environmental Law Journal*. Ms. Williams-Derry's practice concentrates on ERISA,
9 consumer protection, and environmental matters. Prior to joining Keller Rohrback L.L.P. in
10 2005, Ms. Williams-Derry litigated in both the private and non-profit sectors, where she assumed
11 primary responsibility at the trial and appellate levels in cases involving intellectual property,
12 employment, securities, consumer, and corporate disputes, and also gained significant experience
13 litigating issues of water quality, water rights, forest practices, and endangered species. Ms.
14 Williams-Derry has been voted by her peers as a "Rising Star" in Washington every year since
15 2003. She is admitted to the United States District Courts for the Eastern and Western Districts
16 of Washington, the Ninth Circuit, and the Second Circuit.

17 I declare under penalty of perjury under the laws of the United States of America that the
18 foregoing is true and correct.

19 DATED this 20th day of August, 2007.

20 By s/ Mark A. Griffin
21 Mark A. Griffin
22
23
24
25
26